

TITLE 106 - NEBRASKA STATE ENERGY OFFICE

CODE 010 - Elements of a Loan Application

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010.01 Application Submittal Procedures. Any eligible School District desiring to receive a loan may prepare and submit an application. The following information shall be a part of the application:

010.01A. the School District name, number, county, mailing address, state legislative district, congressional district, class, federal taxpayer identification number, and telephone number;

010.01B. identification of the Project other than a Study including:

010.01B1. an Energy Analysis (Code 007);

010.01B2. Bid Documents (Code 010.02) or a Request for Proposal (Code 010.03); and

010.01B3. No-Interest Statement(s) (Code 002.24);

010.01C. identification of the Study including:

010.01C1. a Request for Proposal (Code 010.03); and

010.01C2. No-Interest Statement(s) (Code 002.24).

010.02 Bid Documents and Bidding Procedures.

010.02A Bid Documents. Bid Documents shall:

010.02A1. list all goods and services needed to complete a Project;

010.02A2. provide specific detail so contractors and suppliers of goods and services may use the descriptions as a basis for making bids;

010.02A3. establish a time frame for completion of the Project; and

010.02A4. inform prospective bidders that all contracts will include the following provisions:

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010.02A4a. the award of a contract is contingent on the approval of the Loan Application by the Agency;

010.02A4b. the successful contractor may have no financial interest with the Person who prepared the Energy Analysis, Project Inquiry, Loan Application and Bid Documents for that Project or who is the Project Manager or Construction Manager; and

010.02A4c. all contracts will include the provisions outlined in Code 010.06 Project Contracts.

010.02B Bidding Procedures. Bidding shall:

010.02B1. comply with all applicable laws and any procedures established by the School District;

010.02B2. solicit bids in the form established in the Bid Documents;

010.02B3. at a minimum, use one of the following methods:

010.02B3a. solicit bids for materials by obtaining at least three price quotes from suppliers when the School District plans to use its own employees to implement the Project;

010.02B3b. solicit bids for materials and services by obtaining at least three price quotes from contractors, suppliers, or laborers when the School District plans to use local laborers to implement the Project;

010.02B3c. place a "Notice to Bidders" advertisement in a major Nebraska or Nebraska-received newspaper and local community newspaper; or

010.02B3d. submit the Bid Documents to a "Major Builder's Bureau Plan Service."

010.03 Request for Proposal. The Request for Proposal shall:

010.03A. list the goals and objectives of the School District for the Project;

010.03B. describe a specific scope of work which will produce the energy savings estimated in the Energy Analysis;

010.03C. establish a time frame for completion of the Project;

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010.03D. require those responding to the Request for Proposal to list their qualifications; and

010.03E. inform those responding to the Request for Proposal that all contracts will include the following provisions:

010.03E1. the award of a contract is contingent on the approval of the Loan Application by the Agency;

010.03E2. the successful contractor may have no financial interest with the Person who prepared the Energy Analysis, Project Inquiry, Loan Application and Request for Proposal for that Project or who is the Project Manager or Construction Manager; and

010.03E3. all contracts will include the provisions outlined in Code 010.06 Project Contracts.

010.04 Proposal Solicitation Procedures. Solicitation shall:

010.04A. comply with all applicable laws and any procedures established by the School District; and

010.04B. at a minimum use one of the following methods:

010.04B1. mail or send a facsimile Request for Proposal to at least three qualified Persons;

010.04B2. place a notice of Request for Proposal in major Nebraska or Nebraska-received daily newspaper and a local community newspaper; or

010.04B3. submit a Request for Proposal to trade associations or industry groups relevant to the proposal.

010.05 Costs Allowable for a Loan Application.

010.05A. The following costs to the School District may be included in the amount requested for a loan:

010.05A1. costs of preparing the Energy Analysis, the Project Inquiry, the Request for Proposal, Bid Documents and the Loan Application; and

010.05A2. costs for eligible Measures as defined in Code 003.03.

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010.05B. The following costs shall be borne by the School District:

010.05B1. costs in excess of the amount of the loan from the School District Energy Efficiency Program; and

010.05B2. costs of preparation of a Project Inquiry that is rejected or a Loan Application that is denied.

010.06 Project Contracts. The School District shall contract with selected suppliers of goods and services to implement the Project. The School District shall include the following conditions in the contract:

010.06A Contracts for Projects other than a Study.

010.06A1. the Agency shall have access to the site of the Project and to any books, documents or records directly relevant to the Project;

010.06A2. at least five percent of the total loan amount shall be retained pending final physical inspection and verification of completion of the Project by the Agency;

010.06A3. a written waiver of claims shall be required at the end of the Project; and

010.06A4. a list of subcontractors shall be submitted to the School District within thirty days following the signing of the contract;

010.06B Contracts for a Study.

010.06B1. the completion of the Study according to the requirements of Code 007 (Elements of an Energy Analysis) or Code 006 (Elements of a Technical Analysis.) The School District may include these requirements by reference or include a copy of the appropriate rules and regulations in the actual contract;

010.06B2. payment for the Study shall not be made by the School District until the Study has been reviewed and approved by the Agency; and

010.06B3. a requirement allowing the Agency access to the project site of the Study and to any books, documents or records directly relevant to the Project.

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010.07 Loan Agreement. The Loan Agreement shall expressly give the Agency the following rights:

010.07A. to make physical inspections of the Project before work has begun, during construction, installation or implementation, after work is finished, all work products and any other aspects of the Project including books, documents or records prior to completion and after completion;

010.07B. to stop payments, following verbal notification to the School District, if the Agency determines there is substantial noncompliance with the terms and conditions of the Loan Agreement, any contract let to implement the Project, or any No-Interest Statement submitted with the Loan Application;

010.07C. to resume payments when the Agency determines the noncompliance has been remedied;

010.07D. to identify the date for Project completion as provided for in the Request for Proposal or Bid Documents;

010.07E. to establish a loan closeout date which shall be sixty days following the completion of the Project;

010.07F. to demand payment of all funds disbursed for the part of the Project in dispute if, fifteen days after the Agency has sent a letter to the School District giving specific reasons for stopping payment, the School District has failed to answer or remedy the problems identified to the satisfaction of the Agency; and

010.07G. to include customary contract language.

010.08 Request for Payment. The Loan Agreement shall require:

010.08A. the School District submit all requests for payment on Agency forms including documentation;

010.08B. the Request for Payment be made for work completed; and

010.08C. the Agency authorize payment to the School District within 15 days of receiving a complete Request for Payment or notify the School District of the reason it has not issued payment.

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010.09 Notification of Project Completion. The Loan Agreement shall require the School District to notify the Agency, in writing, promptly when the Project is completed to the satisfaction of the School District.

010.10 Promissory Note. Promptly following the School District's notification of Project Completion according to Code 010.09, the School District shall sign a Promissory Note to repay the loan. The Promissory Note shall:

010.10A. require no interest charge;

010.10B. designate due dates for payments;

010.10C. provide for early payments with no penalty;

010.10D. provide for a penalty for late payments based on the statutory interest rate;

010.10E. define default and the consequences of default such that:

010.10E1. default may occur if a School District fails to make a scheduled payment or remedy the delinquency in ninety days; and

010.10E2. consequences of default shall include action by the Agency to recommend to the Education Committee of the Nebraska Legislature that the School District's appropriation of funds for that year be reduced by an amount equal to the unpaid portion of the payments due on the School District's loan;

010.10F. provide for full payment of the remaining balance if the School District disposes of the equipment or materials installed or purchased with loan funds, disposes of the Building, terminates the lease, or uses the Fueling Facility to provide other than an Alternate Fuel; and

010.10G. include customary contract language.